

tin, Oneal (granted unanimous consent to attend Committee on Governor's Nominations which met at the same hour). Sulak (excused).

S. B. No. 66, was reported favorably by viva voce vote with the recommendation it pass with committee substitute and be printed.

S. B. No. 165, was reported favorably by viva voce vote with the recommendation it pass with committee amendment, and be printed.

S. B. No. 171, was reported favorably by viva voce vote with the recommendation it pass as amended and be printed.

S. B. No. 247, was reported favorably by viva voce vote with the recommendation it pass as amended and be printed.

S. C. R. No. 7, was reported favorably by viva voce vote with the recommendation it pass as amended and be printed.

H. C. R. No. 8, was reported favorably by viva voce vote with the recommendation it pass and be printed.

H. C. R. No. 11, was reported favorably by viva voce vote with the recommendation it pass as amended and be printed.

W. S. REEVES, Secretary.

#### Minutes of Committee on Towns and City Corporations.

Held February 5, 1935.

##### Regular Meeting.

Present: Rawlings, Redditt, Collie, Martin, Poage, Sanderford, Stone and Westerfeld.

S. B. No. 67, was reported favorably by unanimous vote, with the recommendation that it be printed.

S. B. No. 6, was reported favorably by unanimous vote, with the recommendation that it be printed.

JACQUE BARCUS, Secretary.

#### Minutes of Committee on Insurance.

Held February 7, 1935.

Present: Collie, Hughston, Cotten, DeBerry, Holbrook, Moore, Pace, Poage, Rawlings, Shivers, Westerfeld and Woodruff.

Absent: Sulak, excused on account of illness.

S. B. No. 41, was reported favorably by viva voce vote.

S. B. No. 48, was reported favorably by the following vote:

Yeas: Collie, Hughston, Holbrook, Moore, Poage, Rawlings and Shivers.  
Nays: Cotten, DeBerry, Westerfeld and Woodruff.

Absent: Pace and Sulak (excused).

S. B. No. 75 laid on table subject to call.

S. B. No. 177 set for hearing Tuesday at 9:00 a. m.

S. B. No. 139 and S. B. No. 140 set for special order next Thursday at 4:00 p. m.

S. B. No. 76, was reported favorably by viva voce vote.

BILL GEORGE, Secretary.

#### Minutes of Committee Meetings.

Minutes of Committee on Public Health, Held February 7, 1935, Regular Meeting.

Present: Beck, Sanderford, Holbrook, Hornsby, Oneal, Rawlings, Redditt, Small, Woodruff, Davis, Hughston.

S. B. No. 182 was reported favorably by the following vote:

Yeas: Beck, Sanderford, Holbrook, Oneal, Rawlings, Redditt, Woodruff, Hughston.

Nays: None.

S. B. No. 59 was reported favorably with an unfavorable minority report by the following vote:

Yeas: Beck, Sanderford, Rawlings, Woodruff, Hughston.

Nays: Holbrook, Oneal. Holbrook gave notice of minority report.

H. C. R. No. 9 was reported favorably, with committee amendment, by the following vote:

Yeas: Sanderford, Oneal, Rawlings, Woodruff.

Nays: Beck, Holbrook, Hughston.

S. B. No. 220 was reported favorably by the following vote:

Yeas: Beck, Sanderford, Rawlings, Woodruff, Hughston, Holbrook, Oneal.

Nays: None.

BECK, Chairman.

#### TWENTY-FOURTH DAY.

Senate Chamber,

Austin, Texas,

February 11, 1935.

The Senate met at 10 o'clock, a. m., pursuant to adjournment, and

was called to order by Lieutenant Governor, Walter F. Woodul.

The roll call disclosed a quorum, the following Senators being present:

Beck.	Neal.
Blackert.	Oneal.
Burns.	Pace.
Collie.	Poage.
Cotten.	Rawlings.
Davis.	Redditt.
DeBerry.	Regan.
Duggan.	Sanderford.
Fellbaum.	Shivers.
Hill.	Small.
Holbrook.	Stone.
Hopkins.	Sulak.
Hornsby.	Van Zandt.
Martin.	Westerfeld.
Moore.	Woodruff.

Absent—Excused.

Hughston.

Prayer by the Chaplain.

Further reading of the Journal was dispensed with on motion of Senator Blackert.

#### Petitions and Memorials.

(See Appendix.)

#### Committee Reports.

(See Appendix.)

#### Minutes of Committee Meetings.

(See Appendix.)

#### Memorial Speech.

Senator Holbrook delivered an address "In Memorium Nathan Moses Washer, Sic Transit Gloria Mundi."

#### Senate Resolution No. 41.

Senator Fellbaum sent up S. R. No. 41 and asked that the names of all the Senators be added.

Senator Fellbaum moved the adoption of S. R. No. 41.

The resolution was adopted by a rising vote.

#### Bills and Resolutions.

##### House Bill No. 159.

(Request for Advanced Printing.)

Senator Fellbaum requested that H. B. No. 159 have advanced printing.

Consent was granted.

#### Senate Bill No. 263.

By Senators Hopkins, Davis, and Burns:

S. B. No. 263, A bill to be entitled "An Act amending Article 3899 of the Revised Civil Statutes of Texas, 1925, as amended Acts 1933, Forty-third Legislature, page 734, Chapter 220, Section 4, and declaring an emergency."

Read and referred to the Committee on State Affairs.

#### Senate Bill No. 264.

By Senator Oneal:

S. B. No. 264, A bill to be entitled "An Act amending Section 7 of Chapter 98 of the Acts of the First Called Session, Forty-third Legislature, so as to provide for paying by lienholders to the person paying such taxes the taxes, cost and interest and receiving transfer to himself of the tax lien, and declaring an emergency."

Read and referred to the Committee on State Affairs.

#### Senate Bill No. 265.

By Senator Hornsby:

S. B. No. 265, A bill to be entitled "An Act defining the term 'transportation agent'; providing certain exceptions; regulating the business of transportation agents; prescribing the duties of the Railroad Commission with relation to transportation agents; providing for the issuance of licenses and the manner of such issuance; providing for bond of said applicant for license; providing for policy of liability insurance to be carried by said applicant for license; providing for fee and disposition thereof for said license; providing for term of said license and for the suspension or cancellation thereof and the method of same; providing for the keeping of records by such motor transportation agents; providing for inspection of said records by the Railroad Commission; fixing penalty for violation of this act; repealing all laws in conflict; providing that if any section or portion of this Act be held unconstitutional it shall not affect the remainder; and declaring an emergency."

Read and referred to the Committee on State Highways and Motor Traffic.

**Senate Bill No. 266.**

By Senator Hornsby:

S. B. No. 266, A bill to be entitled

"An Act amending Article 793, Chapter 4, Title 9, Code of Criminal Procedure of Texas, 1925, as amended by Acts of 1927, Fortieth Legislature, First Called Session, page 194, Chapter 68, Section 1, and as amended by Acts of 1934, Forty-third Legislature, Second Called Session, page 85, Chapter 33, Section One, amending Article 920, Title 11 of Code of Criminal Procedure of Texas, 1925, relating to the discharge of fines and costs in misdemeanor cases, and declaring an emergency."

Read and referred to the Committee on Criminal Jurisprudence.

**Senate Bill No. 267.**

By Senator Moore:

S. B. No. 267, A bill to be entitled "An Act to amend Article 8161 of the Revised Civil Statutes of the State of Texas, 1925, so as to provide that commissioners of drainage districts are authorized and required to build all necessary bridges and culverts across and over all canals, drains, ditches, laterals, and levees constructed by their districts whenever the same cross a State highway, county or public road; requiring and authorizing such commissioners to pay for the same out of the funds of said districts; authorizing such districts to thereafter, in whole or in part, defray the expenses of making the necessary repairs to such bridges and culverts, providing for the issuance of requisitions and the method of making purchases of materials and supplies and awarding contracts, and the duties of the county auditor with respect thereto, and declaring an emergency."

Read and referred to the Committee on Mining, Irrigation and Drainage.

**Senate Bill No. 268.**

By Senator Moore:

S. B. No. 268, A bill to be entitled "An Act to amend Article 8120 of the Revised Civil Statutes of the State of Texas, 1925, so as to provide a method for fixing the compensation of the commissioners of drainage districts, requiring re-

ports from the commissioners of such drainage districts to the commissioners' courts of their counties setting forth what said reports shall contain and authorizing such commissioners' courts to audit and approve the same; authorizing commissioners' courts in all counties having a population of more than two hundred thousand (200,000) inhabitants, according to the last preceding or any future Federal census and having one or more drainage districts therein, to allow the commissioners of drainage districts in such counties additional compensation for the services of such commissioners, and permitting said commissioners' courts to compensate such commissioners for the use of automobiles under certain conditions and for certain periods, and declaring an emergency."

Read and referred to the Committee on Mining, Irrigation and Drainage.

**Senate Bill No. 269.**

By Senator Small:

S. B. No. 269, A bill to be entitled "An Act making an appropriation of \$2500.00 to make necessary repairs upon the Administration Building at West Texas State Teachers College, and \$7500.00 for materials to construct and finish a men's dormitory now under construction, and declaring an emergency."

Read and referred to the Committee on Finance.

**Senate Bill No. 270.**

By Senator Rawlings:

S. B. No. 270, A bill to be entitled "An Act amending Subdivision 37 of Article 1302, Title 32, of the Revised Civil Statutes of the State of Texas of 1925; providing that corporations may be created for one or more of the following purposes, namely: To establish and maintain an oil business with authority to contract for lease and purchase of the right to prospect for, develop and use coal and other minerals, petroleum and gas, and the right to erect, build and own all necessary oil tanks, cars and pipes necessary for the operation of said business, and to acquire, hold, dispose of and deal in royalty and other interests in the minerals, and to manage, control and exploit said mineral inter-

ests, and to collect the revenue arising therefrom; and providing that domestic corporations whose charters now authorize the conduct of business provided for in said Section 37 of said Article 1302, and foreign corporations having permits to do the business in Texas provided for in said Subdivision 37 of said Article 1302, are empowered to carry on all of the business mentioned above, for which corporations are authorized to be created; and providing that the conduct of all of such business is declared to constitute one corporate purpose and one business; repealing Chapter 19, Acts of the Fifth Called Session of the Forty-first Legislature, and declaring an emergency."

Read and referred to the Committee on Civil Jurisprudence.

#### Senate Resolution No. 42.

Be it resolved by the Senate of Texas, That the Lieutenant Governor appoint a committee of five Senators to attend the funeral of Thomas Finley Hughston, father of our colleague, Senator Wallace Hughston, who passed away this morning at his home at Plano, Texas.

HORNSBY.

Read and adopted by a rising vote.

#### Committee Appointed.

The Chair appointed Senators Holbrook, Collie, Hill, Davis and Westfeld as the committee from the Senate to attend the funeral of Senator Hughston's father at Plano, Texas, as requested in S. R. No. 42.

#### S. C. R. No. 16.

Senator Hornsby sent up the following resolution:

Whereas, The Honorable Hal H. Sevier, Minister to Chile, has accepted an invitation to address a joint session of the Legislature and will be in Austin Tuesday, February 12, 1935; now, therefore, be it

Resolved by the Senate, the House concurring, That the House and Senate hold a joint session at 11 a. m., Tuesday, February 12, 1935, for the purpose of hearing the address of Hon. Hal H. Sevier. Be it further

Resolved, That the Speaker of the

House and the Lieutenant Governor be and they are hereby instructed to each appoint three members of their respective bodies for the purpose of making arrangements, and escorting the speaker to the House.

HORNSBY,  
NEAL.

Senator Hornsby moved that the Senate rule requiring resolutions to be referred to a committee be suspended and that S. C. R. No. 16 be taken up and considered at this time.

The motion prevailed.

S. C. R. No. 16 was adopted unanimously.

#### Committee Appointed.

The Lieutenant Governor, Walter F. Woodul, appointed Senators Hornsby, Neal and Collie on the part of the Senate in compliance with S. C. R. No. 16.

#### Senate Bill No. 271.

Senator Duggan received unanimous consent to suspend the regular order of business and sent up the following bill:

By Senator Duggan:

S. B. No. 271. A bill to be entitled "An Act amending Article 2842 of the Revised Civil Statutes of Texas, 1925, to provide for the letting of contracts by the State Board of Education to purchase textbooks for intermediate periods, said periods to be terminated upon one year's notice by said State Board of Education to the contractor; repealing all laws and parts of laws in conflict herewith; and declaring an emergency."

Read and referred to the Committee on Educational Affairs.

#### Request for Executive Session.

Senator Oneal asked unanimous consent that the Senate go into executive session today at 11:00 o'clock a. m., to consider Governor's nominations.

Unanimous consent was granted.

#### Messages from the Governor.

The Chair recognized the Doorkeeper, who introduced a messenger from the Governor with the following messages:

Executive Office,

Austin, Texas, Feb. 11, 1935.

To the Forty-fourth Legislature:

The platform of the Democratic

Party of Texas, adopted in September, 1934, says, in part:

"We condemn the law legalizing race track gambling and favor its repeal."

This platform demand of our Party was in response to an issue clearly emphasized in the campaign for Governor and in most of the legislative races. It was adopted in answer to insistent demands by the business, moral and educational forces of Texas.

No niceties of language, no hair-splitting phraseology, no talk of so-called "pari-mutuel," or "certificate" systems can disguise the fact that everything permitted under the race track gambling law is gambling, pure and simple. This act, originally passed as an amendment to the departmental appropriation bill in the closing hours of the Forty-third Legislature and reenacted at the first called session, simply legalizes flagrant evils outlawed by patriots in the Legislature twenty-six years ago.

Since there can be no question but what the "pari-mutuel" or "certificate" system of race track betting is gambling, may I remind you that nearly 150 years ago George Washington wrote:

"This" (gambling) "is a vice which is productive of every possible evil, equally injurious to the morals and health of its votaries. It is the child of avarice, the brother of iniquity, and the father of mischief. It has been the ruin of many worthy families, the loss of many a man's honor, and the cause of suicide. To all those who enter the lists, it is equally fascinating. The successful gamester pushes his good fortune, till it is overtaken by a reverse. The losing gamester, in hopes of retrieving past misfortunes, goes on from bad to worse, till, grown desperate, he pushes at everything and loses his all. In a word, few gain by this abominable practice, while thousands are injured."

And Shakespeare said:

"It is lost at dice, what ancient honor won."

And Benjamin Franklin:

"Keep flax from fire, youth from gaming."

The wisdom of our law making fathers who outlawed this evil in the life of Texas was not without foundation in legal principle. Blackstone wrote:

"Gaming is a kind of tacit con-

fession that the company engaged therein do in general exceed the bounds of their respective fortunes, and therefore they cast lots to determine upon whom the ruin shall at present fall, that the rest may be saved a little longer."

Countless authorities might be cited supporting these profound truths. After all, as has been said before, "all gaming, since it implies a desire to profit at the expense of another, involves a breach of the Tenth Commandment."

To this good hour, Washington, Shakespeare, Franklin, Blackstone and the Bible are cited as authorities for the guidance of us all. They are surely better counselors than paid advocates of the kind of gambling interests that have "gone to seed" under the provisions of the race track gambling law of Texas.

During the seventeen months since this law was enacted Texas has witnessed and suffered every evil pointed out by Washington as attendant upon gambling. The very foundation of morality and character of our people is being undermined by legalized commercialized and advertised gambling. Within its shadow stalks every kind of racketeering. The tout, the thug, have been brought within the law and invade the realm of decency. Embezzlements, suicides, swindlings and social disasters have followed in a dire chain of events.

The consequences are uniformly destructive. Public officials have been indicted for embezzlement, traceable, I understand, to losses at the race track. Trusted employees in private business institutions have checked up short. Merchants and business men find it more difficult to collect their accounts than before the passage of this act. Uniformly, they report that employees and customers alike pour not only their savings but their current earnings into legalized gambling institutions.

Leaving out names, may I quote from a news item recently appearing in the press:

"\_\_\_\_\_ of a given address died at 1:50 p. m. Tuesday at Saint Joseph's Infirmary. A poison bottle half empty was found in his hotel room. A note in his pocket read, 'The race horses caused this. The wages of sin are death. The greatest thing the Legislature can do is to repeal the gambling laws. May

God have mercy on my soul, and watch over and protect my family."

An isolated instance, some may say, but this we know; this suicide left a record as to the cause of his ruin. There may have been others. It would have been far better not only for this unfortunate man but for Texas had the race track gambling law not been passed.

Advocates of the race track gambling law urge its retention because of the taxes collected. As a matter of fact, only a small part of the revenues promised by those who originally favored its enactment has been realized by the state. It would have been far better for Texas if the more than twenty-one million dollars which last year passed through the windows of pari-mutuel race tracks had been circulated instead in the regular channels of commerce. In any event, personally and officially, I am opposed to legalizing for revenue purposes a moral and economic evil, destructive alike of the character and prosperity of our people. It is axiomatic that taxation of immorality and vice is the resort of a weak government. We simply cannot afford to bargain with a vice which Washington said "is the child of avarice, the brother of iniquity and the father of mischief."

As to the merits of the race track gambling law, there is, of course, room for honest differences of opinion. Some sincere advocates of retention of the measure say that our trouble is wholly due to the thousands of bookie shops that have sprung up all over the state. The fact remains that these bookie shops have practically all come into being since the passage of the race track gambling law. All admit that without gambling the race tracks cannot exist. If there were no race track gambling, there would be no bookie shops.

It is but another form of corruption when the state approves and feeds upon gambling within the confines of the race track; yet, at the same time, denounces it as unlawful if carried on elsewhere. Small wonder that some officers of the law are discouraged and others openly refuse to enforce the general gambling laws, when such injustices are perpetrated in the name of the sovereign State of Texas.

Again, it is said that it would be bad faith for the Legislature to repeal this law because of investments

made under same. I dare say that, with one possible exception, the investments made in every track in Texas have handsomely repaid their owners. In any event, the manner in which the passage of the law was first secured, after it had been defeated in a fair fight on the floor of the House and then being tacked on as an amendment to the appropriation bill, thereby compelling some members to vote for it who had theretofore voted against it, put the race track people on notice, that, to say the least of it, they were on trial in Texas. As a whole, the racing industry has been weighed in the balance and found wanting.

Texas has had to pay too dear a price in manhood and womanhood, in crime and racketeering, in business losses and failure to countenance any longer this open gambling, this raging fever, this prairie fire of corruption loosed upon us at a time when every demand is for reconstruction, for restoration, for rebuilding of society upon the old foundation stones of honesty and common decency.

In my humble judgment, if this matter were left up to a vote of the people of this state, repeal of the race track gambling law would be overwhelmingly approved. For the sake of the homes and children of Texas, for the sake of legitimate business, I earnestly urge you to carry out the will of the people and repeal this pernicious law.

Respectfully submitted,  
JAMES V. ALLRED,  
Governor of Texas.

Executive Office,

Austin, Texas, Feb. 11, 1935.

To the Senate of the Forty-fourth Legislature:

I respectfully submit for the advice and consent of the Senate the following appointments:

To serve as Directors of the Colorado Valley Authority:

Two-year-term—J. R. Key, of Lampasas County;

Four-year-term—C. R. Pennington, of Taylor County;

Six-year-term—R. W. Yarborough, of Travis County.

To serve as members of the Board of Regents of the State Teachers Colleges:

R. A. Stuart, of Tarrant County;

J. D. Jackson, of Brewster County.

To serve as members of the State Board of Public Accountancy:

Frank Wilcox, of McLennan County;

J. B. Allred, of Wichita County;  
C. M. Grider, of El Paso County;  
T. B. Trotter, of Harris County;  
Clinton E. Smith, of Bexar County.

To membership on the Board of Directors of Texas Technological College:

To succeed R. A. Stuart, of Fort Worth (nominated above for membership on the Board of Regents of the State Teachers Colleges), for unexpired term and for 6-year term beginning February 19, 1939, Mrs. W. R. Potter, of Bowie, Montague County.

Respectfully submitted,  
JAMES V. ALLRED,  
Governor of Texas.

Executive Office,

Read and referred to the Committee on Governor's Nominations.

Austin, Texas, Feb. 11, 1935.  
To the Senate of the Forty-fourth Legislature:

I understand that amendments will likely be offered to the State Planning Board Bill proposing to divide the appointive power between the Governor, the Lieutenant Governor and the Speaker of the House; and also to provide that certain State officials shall serve as members of such board.

I have stated to a number of Senators personally that I have no objection to substituting the Chairman of the State Board of Water Engineers for the Secretary of State. With reference to placing other state officers upon the board, however, I wish to call your attention to the fact that practically every state officer already has more duties to perform than he can efficiently discharge. The efficiency of most of the state boards on which state officers perform ex-officio duties is impaired due to the fact that they do not have sufficient time and responsibility, for the faithful discharge of those duties; and because responsibility is divided between a number of elective or appointive officers.

I also trust the Senate will not seriously consider the proposal to divide the appointive power between the Governor, the Lieutenant Governor and the Speaker of the House. Since the framing of the Constitution appointment to state or district offices has always been regarded as

an executive function. Indeed, there is a serious question as to the constitutionality of placing this appointive power in the legislative department of the government. The proposed division of appointive power is a very recent innovation. From the standpoint of harmony and efficiency it was not successful in the case of the State Relief Commission.

One of the chief objections to such proposal is made clear by a companion message addressed to the Senate this day submitting the names of appointees to the directorship of the Colorado Valley Authority for confirmation. Under the Act, the appointive power was divided between the Governor, the Attorney General and the Land Commissioner. The Governor, the chief executive officer of the State, is required under the Constitution to submit the names of his three appointees to the Senate for confirmation; yet the Attorney General and the Land Commissioner are not required to do so.

After all if the Governor is given this appointive power, the Senate under the Constitution will have to approve the appointments. As Attorney General two years ago, I held that the appointive power is co-equal between the Governor and the Senate. Since you have an equal voice with me in seeing that capable and qualified people are appointed to this board, it would seem unnecessary to provide for any division of the appointive power.

Again may I respectfully suggest to you that the functions of the State Planning Board will be largely advisory to the Governor. The Federal Government, of course, largely deals with the State through the Governor. He has not the time to make a careful study of public projects and to plan for the future of the State. The State Planning Board is designed to aid, assist and advise the Governor. Surely it is not asking too much to suggest that the Governor should be permitted to name the members of his own advisory board.

It is my understanding that in all other states where state planning boards have been created, the power of appointment has been given to the governor. I hope this Legislature will manifest equal confidence in the chief executive of Texas.

Respectfully submitted,  
JAMES V. ALLRED,  
Governor of Texas.

**Senate Resolution No. 43.**

Senator Hornsby sent up the following resolution:

Be it resolved, That the expenses of the floral offering sent by the Senate of Texas to the family of Thomas Finley Hughston, and the expenses of the committee appointed to attend the funeral be paid out of the contingent expense fund of the Senate.

**HORNSBY.**

Adopted.

**Executive Session.**

The Chair, at 11:00 o'clock a. m., stated that the time set for executive session had arrived, the chamber was cleared and the doors locked.

**Bills Signed.**

The Chair, Lieutenant Governor, Walter F. Woodul, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

H. B. No. 217.

S. B. No. 109.

**Senator Excused.**

Senator Hughston was excused for the day on motion of Senator Hornsby, on account of a death in his family.

**Message From the House.**

The Chair recognized the Doorkeeper, who introduced a messenger from the House with the following message:

Hall of the House of Representatives,

Austin, Texas, Feb. 11, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has concurred in Senate amendments to H. B. No. 416, by a vote of 110 yeas and 8 nays.

The House has passed:

H. C. R. No. 15, Requiring both Houses to report out general appropriation bills by March 25, 1935, and such bills shall be the first order of business until finally acted upon.

H. C. R. No. 32, Memorializing

Congress to pass an act relative to fair competition between rail and steamship lines in the transportation of transcontinental traffic, etc.

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

**Request For Executive Session.**

Senator Oneal asked unanimous consent that the Senate go into executive session at 3:00 o'clock p. m., today to consider Governor's nominations.

Unanimous consent was granted.

**Recess.**

On motion of Senator Oneal, the Senate, at 12:20 o'clock p. m., recessed until 3:00 o'clock p. m.

**After Recess.**

The Senate met at 3:00 o'clock p. m., pursuant to recess and was called to order by Lieutenant Governor Walter F. Woodul.

**Executive Session.**

The Chair recognized Senator Oneal who stated that the hour set for executive session had now arrived. The chamber was cleared and the doors locked.

**After Executive Session.**

The Secretary of the Senate informed the Journal Clerk that the following action was taken in executive session:

To be judge of the District Court of Dallas County, for the 14th Judicial District: Mrs. Sarah T. Hughes of Dallas County.

Confirmed.

**Statement.**

Senator Collie requested and received unanimous consent to send up the following:

Mr. President, I ask unanimous consent to have printed in the Journal the following statement:

The State of Texas,  
County of Travis.

Before me, the undersigned authority, on this day personally appeared Wilbourne B. Collie, of Eastland, Eastland County, Texas, known to me, and who, after being by me first duly sworn, deposes and says:

Believing, as did Edmund Burke, that the people are entitled to know



whether special privilege or any influence whatsoever governs the activities or interest of their public servants, I quote from his speech once delivered at Bristol:

"It ought to be the happiness and glory of a Representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinions high respect; their business unremitted attention; but his unbiased opinion, his mature judgment, his enlightened conscience he ought not to sacrifice to you, to any man, or to any set of men living. Your Representative owes you not his industry only, but his judgment; he betrays instead of serving you if he sacrifices it to your opinion. You choose a Representative, indeed; but when he is chosen he is not . . . of Bristol, but a member of Parliament."

In thorough agreement with this pronouncement, I am voluntarily listing below the names and addresses of all persons, firms and corporations who have engaged my services as a lawyer during the year 1934, and those from whom any character of compensation or fee has been collected, none of which was collected or earned during any session of the Legislature since I have been a member:

H. A. Skinner, Eastland; Harry Porter, Fort Worth; T. L. Patterson, Lubbock; Will St John, Cisco; Cisco State Bank, Cisco; Earl Bender & Co., Eastland; Texas State Bank, in Lq., Eastland; Ernest Halkais, Eastland; First National Bank, Gorman; W. A. Lasater, Nimrod; Mrs. Sylvia Evans, Breckenridge; Guy Dabney, Cisco; Pratley Bros., Eastland; N. A. Moore, Eastland; Newnham & Walker, Ranger; Pipkin Bros., Eastland; Drs. Payne & Lovett, Eastland; Panhandle Refining Co., Eastland; Mrs. Lillian Denison, Springfield, Ill.; Crown-Central Co., Houston; Wm. Monning, Fort Worth; Butler-Harvey Chevrolet Co., Eastland; The Fair, Fort Worth; Pipkin-Moore & Bender, Eastland; Receiver Security Union Ins. Co., Houston; American Service Bureau, Dallas; Retail Credit Company, Fort Worth.

My principal occupation, when not engaged in the service of the State as a member of the State Senate, is that of practicing law. I was paid a fee

by the above clients for specified legal services referred to my office and in the courts. I have no partnership, and have not at any time been retained by any person, firm or corporation for any salary, dividend or compensation upon any time basis. I have never worked for, or represented, a utility, transportation, or oil corporation and have never owned stock in any such company. I am not indebted to, or have claims against, any such company or corporation, and so far as I know have no relative so connected.

I am not employed in any criminal case and have received no compensation whatever for recommending Executive clemency either to the Pardon Board or Governor.

I hold no membership in any group, association, organization, Chamber of Commerce, or corporation, that has appeared before Legislative Committees in behalf of, or opposed to, the passage of any legislation. I know of no relative holding such membership and none has appeared before any committee.

A brother is employed as gasoline tax enforcer in the Dallas office of the State Comptroller at a salary of \$150 per month. A nephew is employed as a patrolman on the Capitol grounds by the Board of Control at a salary of \$20 per month. These are the only relatives known to me to be employed by the State.

I have not directly, nor indirectly, paid offered or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office of employment, as a reward for a vote at the election at which I was elected. I made no promises, and authorized no one else to do so, that would obligate me in any manner whatever. I am now responsible to no one but the people, thousands of good friends, unknown to me, who paused in their daily occupations to support my candidacy and confide in me their commission as a State Senator. I owe a debt of gratitude to these friends and supporters, but remain now unhampered as to obligations that would disturb a grateful heart.

WILBOURNE B. COLLIE

Subscribed and sworn to before me, the undersigned authority, this 11th day of February, A. D. 1935,

and as to authenticity, witness my hand and seal of office.

BESSIE L. PIERCE.

Notary Public, in and for, Travis County, Texas.  
(Seal)

#### House Bill No. 97.

Senator Redditt received unanimous consent to have the following amendment printed in the Journal:

Amend H. B. No. 97 by striking out all of sections 2 and 3, page 2, and substituting in lieu thereof the following:

Section 2. A board is hereby created and established which shall be known as "The Texas Planning Board," which board shall expire on June 1, 1939. This board shall consist of eleven (11) members, six (6) of whom shall be appointed by the Governor of the State of Texas, and who shall be citizens of the State of Texas. The remaining five (5) members shall be Clifford Jones, of Spur, Texas; R. M. Kelley, of Longview, Texas; C. A. Goeth, of San Antonio, Texas; John H. Sharry, of Mission, Texas; and Ike Ashburn, of Houston, Texas, all of whom formerly constituted the Federal Advisory PWA Board for Texas. They shall be confirmed by the Senate of Texas.

Upon the effective date of this Act, the Governor shall appoint six (6) members who shall serve for a term of two years, and who will be eligible for re-appointment by the Governor of this State. The Governor shall also fill any vacancies which may occur on the board, and also shall designate one member of the board as chairman. The members appointed by the Governor shall be confirmed by the Senate of Texas, and before entering upon the discharge of his duties, each member shall qualify by taking the oath required by the Constitution and laws of this State. Two (2) members of the board to be appointed by the Governor shall be persons who are directly associated or engaged in agriculture, and one member shall be affiliated with organized labor. The Chairman of the Board of Water Engineers of the State of Texas, the Chairman of the Highway Commission of the State of Texas, and the Secretary of State shall be ex-officio members of said board, and shall be entitled to attend all hearings and

shall have all rights, privileges and powers as members of said board, except they shall have no right to vote. The members appointed by the Governor of the State of Texas, after the expiration of the two-year period for which the first members are appointed, shall be appointed to serve until the termination of this board on June 1, 1939.

Section 3. In addition to the chairman, the officers of the board shall be a vice-chairman, selected by the board, and he shall be elected at the first regular meeting of the board, and he shall serve for a term of two years. The secretary of said board shall be the Secretary of State, and he shall be the custodian of all records of said board, and shall keep said records in the office of the Secretary of State where they shall be open for the public inspection at all times.

The board shall adopt by-laws for the conduct of its business and shall have the right to name its own employees as specified herein who shall serve at the will of said board.

REDDITT.

#### Senate Bill No. 253.

Senator Rawlings asked unanimous consent that S. B. No. 253 have public hearing on Monday at 3:00 o'clock p. m. before the Committee on Labor.

#### Senate Bill No. 3.

Senator Stone asked unanimous consent that S. B. No. 3 have a public hearing Wednesday at 2:00 o'clock p. m. before the Committee on Criminal Jurisprudence.

#### Senate Bill No. 272.

Senator Holbrook received unanimous consent to send up the following bill:

By Senator Holbrook:

S. B. No. 272, a bill to be entitled "An Act amending Article 4879 of the Revised Civil Statutes of the State of Texas, 1925, providing that rate of premiums to be charged or collected by all companies transacting the business of fire and/or tornado insurance in this State shall be exclusively fixed and determined and promulgated by the Board of Insurance Commissioners, and providing that no insurance company shall charge or collect any premium or

other compensation for any policy of fire and/or tornado insurance other than at the rate as herein provided for, repealing all laws in conflict herewith, and declaring an emergency."

Read and referred to the Committee on Insurance.

#### Senate Bill No. 273.

Senator Holbrook received unanimous consent to send up out of regular order the following bill:

By Senator Holbrook:

S. B. No. 273, A bill to be entitled "An Act to amend Section 3 of Article 4725 of the Revised Civil Statutes of Texas 1925 as amended by Chapter 153 of the General Laws of the Regular Session of the Forty-second Legislature of Texas so that the same shall hereafter read as follows: Any Life Insurance Company of the State, for the purpose of investing its funds, or any part thereof, may purchase and hold as collateral security, or otherwise, and sell and convey the capital stock, bonds, bills of exchange or other commercial notes or bills and securities of any solvent dividend paying corporation which has not defaulted in the payment of any of its obligations for a period of five years, the current market value of which such stock, bonds, bills of exchange, or other commercial notes and securities shall be at all times during the continuance of such loan at least fifty per cent more than the sum loaned thereon; and declaring an emergency."

Read and referred to the Committee on Insurance.

#### Resolutions Referred.

H. C. R. No. 15, referred to the Committee on Finance.

H. C. R. No. 32, referred to the Committee on State Affairs.

#### Motion to Adjourn.

Senator Holbrook, at 5:55 o'clock p. m., moved that the Senate stand adjourned until 10:00 o'clock a. m., Wednesday.

Senator Poage moved that the Senate stand adjourned until 10:00 o'clock a. m., Tuesday.

The motion by Senator Holbrook prevailed by the following vote:

Yeas—19.

Burns.  
Collie.

Cotten.  
Davis.

Duggan.  
Hill.  
Holbrook.  
Hopkins.  
Martin.  
Neal.  
Rawlings.  
Redditt.

Sanderford.  
Shivers.  
Small.  
Stone.  
Sulak.  
Van Zandt.  
Westerfeld.

Nays—9.

Blackert.  
DeBerry.  
Fellbaum.  
Hornsby.  
Oneal.

Pace.  
Poage.  
Regan.  
Woodruff.

Absent.

Beck.

Moore.

Absent—Excused.

Hughston.

#### APPENDIX.

##### Petitions and Memorials.

#### IN MEMORIAM, NATHAN MOSES WASHER, SIC TRANSIT GLORIA MUNDI.

Mr. President, and Gentlemen of the Senate: There was laid to rest on last Friday, in the beautiful cemetery of Temple Beth El in the City of San Antonio where he made his home, all that was mortal of a great citizen of Texas. The kindly spirit of Nathan Moses Washer had quit this tenement of clay to join the hosts of life and light eternal.

It is fitting that the Senate should at this hour pay tribute to his memory, and recount something of those fine characteristics which stamped him as a real leader of his generation; and which, if taken at their true value, will constitute a priceless legacy for the young men and women of Texas who are to come after him.

I shall not attempt to evaluate in detail his long and useful career—this will be told as time goes on by ten thousand orphans he has helped to educate, and by five million children who have learned of him in our public schools.

Three score and thirteen years ago, he was born in the little town of Somerville, Tennessee; and in early childhood removed with his parents to Memphis, where he received his education. At the age of twenty he heard the call of the

West and with his brother Jake came to Fort Worth, Texas, where they engaged in the clothing business. This partnership continued in a very successful way until 1906, when Jake Washer died. In 1898 the subject of this memorial settled in San Antonio, where he established an independent clothing business, which continued until 1925 when he sold out and retired from the mercantile field. The remainder of his life was devoted to humanitarian work, in which he had an abiding interest since young manhood.

Always at the vanguard in matters of civic, fraternal, and public affairs, he was a commanding figure in the community in which he lived, and in the State at large. He was the leading member of the Board of Directors of the Masonic Orphans Home in Fort Worth for more than a third of a century, and gave unsparingly of his time and efforts to the general welfare of that institution.

He became the foster father of the children there, and in this respect his place never can be filled. At the time of his death, he was the senior Past Grand Master of Masons in Texas, and had been honored by the thirty-third and last degree of the Ancient and Accepted Scottish Rite of Free Masonry.

He served for a number of years as President of the school board of San Antonio and since the founding of the State Board of Education had been its presiding officer. During the World War he was President of the War Camp Community service in his home city, and did valiant service in the matter of keeping the "home fires burning." Being an orator of renown, he was able and did keep his countrymen at a high pitch of patriotism. For many years past it was his pleasure to bring together the news boys of his city at Christmas time and treat them to a well rounded dinner.

All in all, no man of his time in Texas did more for the underprivileged youth; and in his passing the educational forces in this State have suffered an irreparable loss. To them he gave unstintedly the last, and perhaps the best, years of his glorious life. His mind was richly endowed with the choicest literature, and on occasions he often rose to the best there is in southern oratory. His masterful use of these fine arts made him welcome in any company.

Dynamic, forceful, educated and

refined, he was a leader in every cause he espoused; and certainly the life he lived will shine refulgent in that of many an orphaned boy. The Masonic Home and School in Fort Worth is a living example of practically his own creation. To him more than any other man is due the credit of its beginning, and through all the years since he has given it "The last full measure of devotion." No less may be said of his interest in our public schools. During the last decade he has worked incessantly for their improvement, and the waning hours of his wasting strength were devoted to the welfare of the million children who attend them. With the seal of death upon his brow, he phoned me from his sick bed in San Antonio, requesting that the high plane upon which he had pitched this work be carried on.

With a rare culture and a refined influence, his very presence lent dignity on all occasions. So rare and gracious were his charming attributes, that every act of his public and private life pointed the way to higher and nobler paths of duty. Like Hamlet, he did not soliloquize with himself, and inquire whether or not it would be profitable "to die, to sleep, to wake; to be, or not to be?" His was more of that character of mind which caused the Bard of Avon make Polonius say to Laertes, his offspring: "This above all: To thine own self be true, and it must follow, as night the day, thou canst not then be false to any man." For him came always the call of Seneca's pilot, when amidst the tempest of surging seas, he exclaimed to Neptune,

"Thou may save me if thou wilt,  
And may if thou wilt, destroy me;  
But whether or no, I will steer my  
rudder true."

I believe it was in Froude's sketch of Caesar, there is reference to a legend of the appearance before the bar of final judgment of possibly the most powerful monarch of the sixteenth century, as preserved in one of Titan's great paintings. In the author's language, the accusing angel is there with a lengthy catalogue of his misdeeds, which no advocate could palliate, much less condone. The evil spirit stood by in demand for his soul. But at the last moment the Supreme Judge intervenes, saying that the Emperor had been sent into the world at a peculiar time and for a special purpose; and was not

to be tried by the ordinary rules of court. The offender is kneeling before the throne with the consciousness of human frailties written upon his countenance; yet neither afraid nor abject, relying upon his faith that the Judge of all mankind would do the right. Mr. Washer had that faith, and through it we may now believe that he stands with the prophets of Israel of old, triumphant as a prince of the Tribe of Judah, and under the sheltering folds of his King of Kings, and Lord of Lords.

Always recognizing human frailties and human weaknesses, his mind was constantly directed to the higher good in man; and to this end he spent his life. There was no cant nor conceit in him, so far as I was able to discern; and with hope everlasting and courage undimmed, he was often heard to repeat with Tennyson,

"Sunset and evening star,  
And one clear call for me!  
And may there be no mourning at  
the bar,  
When I put out to sea.

But such a tide as moving seems  
asleep,  
Too full for sand and foam,  
From that which drew from out the  
boundless deep  
Turns again home.

Twilight and evening bell,  
And after that the dark!  
And may there be no sadness of  
farewell,  
When I embark;

For though from out our bourne of  
Time and place  
The flood may bear me far,  
I hope to see my Pilot face to face  
When I have crossed the bar."

Nothing more beautifully expresses the philosophy of life he held, than that which he wrote in the nature of a patrimonium to his children under date October 5, 1934, at which time he undoubtedly observed the light of judgment shining in his face. It constitutes his own epitaph, and for the benefit of future generations may well be considered a "Thanatopsis". That it may be preserved for permanent record, I quote in part:

"Now that I have passed the top rung of life's ladder, and am even beyond the Biblical tenure of the allotted years of man, I am looking not so much forward in anticipation,

and thus in evidence of still hidden pitfalls of threatening danger, but rather to the indulgence of retrospection and even introspection, that I may rejoice in the victories I must have won while crossing the labyrinth of doubt and despair that lay in my pathway for more than three score years and ten.

"Thus in the evening of life, when the sun is almost down, I press back the drop curtains that have fallen on the scenes, which picture the tableau and the different parts I have taken on the stage, as I walked its long and interesting lanes. I can see how often I gave and took the wrong cue, and thus brought embarrassment, and mayhap injury, to many of the cast, who like me were striving to give that finished performance to their several tasks, as would have marked them as stars in the play itself, at once beatific, beautiful, and blessed.

"Alas, that such scenes may not be reenacted, relived again so that one's faux pas then indulged might be avoided, and the beauty of the performance not be marred; but once the line is spoken or the gesture made there is no chance to recall them, and destiny will rate the show by its enactment, and not by a conjecture of how it might have been if given another trial.

"I am thinking now of the most important role to which I could have been assigned: that of a father, and I am wondering if I overplayed the part, or whether I left unsaid or undone some of the lines and the scenes which might have stamped me as a brilliant light in the galaxy among those who from the beginning of time essayed this the greatest of all heroic rolls in the drama of life. For me, it is too late now for either conjecture or correction. The die has been cast; the house is darkened; the audience dismissed, for many who sit in the back or front of the stage. The epilogue is only an echo, and no earthly power can re-construct it; nor is it possible to rewrite the scenes or reform the words of those who spoke for the multitude, and were themselves a part of the warp and woof of their contemporaries.

"My constant aim has been to bring you safely through the formative period of your lives; and truth to say, it is difficult if not well nigh impossible to properly define either the alpha or the omega of that im-

portant epoch. I wanted your childhood to be filled with affection, and be free of care, that in the indulgence of innocent enjoyment you might be circumscribed by no restraint save that imposed by a filial love. Withall, it was my desire to have you know the need to play the game hard and play it square, making selfishness subservient to fairness, being neither insistent nor persistent, but rather gentle and generous in deciding the issue of victor or vanquished in every walk of life.

"All this is now as a 'tale twice told,' and both you and I are familiar with its incidents, and even now you are cherishing for your own progeny a secure way through which she may reach the ultimate goal of human happiness, just as I have striven to insure your future.

"Five of the seven ages of man as the Bard describes them, are included in your experience, so that now nothing is left for me but to emphasize for you the imperative obligations to which you are by nature irrevocably pledged, and which are to guide you through the other two of the incompleated sectors. The first, is to God, the author and creator of the universe. Men may scoff and deride, and deny, but I commend Him to you as a firm anchor from which your ship of life must never be detached. Next, I would enjoin upon you loyalty and devotion to your country. Never forsake its flag, nor permit its desecration; even if in its defense you must sacrifice life itself. Thirdly, I suggest to you, love of your fellowman; to realize that you are "your brother's keeper," and never fail in your duty to promote the welfare and happiness of all who plod beside you in promoting the general good. "If thy neighbor's doctrine pleases thee not, be gentle in your administration and retort, for in the end it is God and not man who is the Judge." No place in life is comparable to the feeling of elation that thrills you when you have brought sunshine and happiness into the erstwhile desolate hut or heart of some suffering being; all the more thrilling and enjoyable if done at a sacrifice entailing self-denial. To deprive yourself of a coveted wish so that another may

realize enjoyment is true philanthropy, compared to which there is no like exaltation of spirit.

"The recognition of these three obligations will stamp you as a man amongst men in your community, and will always give you a self-conscious pride in your conduct. Having admitted the sequence of these duties to God, your country, and humanity, it becomes manifest that duty to yourself should come after they have been considered and observed. It is difficult, I know, to subordinate ones self to such demands; nevertheless, in doing so, it will raise you to the highest standard of citizenship, and make you exemplary in the judgment of your associates.

"I would not say that this should entail in anywise neglect of your obligations to the loved ones of your own household. These must be nurtured and protected against the ravages of want and misery, and never be permitted to suffer wilful abandonment. It is you, yourself, who must rise to the heights of self-abnegation, who must be content with less, that others may enjoy more. It may be hard, but it is the yard stick of measured manhood. I know you can do it, and I feel certain that you will.

"Finally, as I, with a father's care, have attended you lovingly and thoughtfully throughout your life, so will I continue until I pass from this ephemeral sphere to that eternal one; and even then I will, if it is possible, shed what benign influence I may exert from that spirit world, to guide, to comfort, and to bless you."

From my study of history, literature, and philosophy, I have never gleaned words with a profounder concept. They depict all there is in what makes for a beautiful life here, with the assurance that in the life to come he who heeds these admonitions will be crowned with a glorious immortality. For him who wrote these words, and dedicated his life to the ennoblement of mankind, we can well believe,

"There is no death, the stars go down  
To rise upon some fairer shore;  
And there, in heaven's jeweled crown,  
They'll shine forevermore."

**In Memory  
of  
Nat M. Washer**

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**Senate Resolution No. 41.**

WHEREAS, The Senate has learned with great sorrow of the passing of Hon. Nat. M. Washer of San Antonio, Texas, late President of the State Board of Education, and

WHEREAS, Not only in this capacity, but in many other positions of trust and honor, Mr. Washer has, during his more than fifty years as a resident of Texas, rendered a distinguished service; and has in each and every instance shed luster on the positions he held.

THEREFORE, BE IT RESOLVED, That the memorial address this day delivered by Senator T. J. Holbrook of Galveston, be printed in the Journal as a mark of our affectionate regard for Mr. Washer; that a copy of same be mailed by the Secretary of the Senate to each member of his family, and that when the Senate adjourns for the day, it do so in his honor.

Respectfully submitted,

FELLBAUM.

Senator Fellbaum asked that the names of all the Senators be added.

BECK,  
BLACKERT,  
BURNS,  
COLLIE,  
COTTEN,  
DAVIS,  
DeBERRY,  
DUGGAN,  
HILL,  
HOLBROOK,  
HOPKINS,

HORNSBY,  
HUGHSTON,  
MARTIN,  
MOORE,  
NEAL,  
ONEAL,  
PACE,  
POAGE,  
RAWLINGS,  
REDDITT,  
REGAN,

SANDERFORD,  
SHIVERS,  
SMALL,  
STONE,  
SULAK,  
VAN ZANDT,  
WESTERFELD,  
WOODRUFF,  
WOODUL, Lt. Gov.

Read and adopted by a rising vote.

**Committee on Enrolled Bills.**

Committee Room,  
Austin, Texas, Feb. 8, 1935.  
Hon. Walter F. Woodul, President of  
the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 109 carefully examined and compared and find same correctly enrolled.

POAGE, Chairman.

**Committee Reports.**

Committee Room,  
Austin, Texas, Feb. 7, 1935.  
Hon. Walter F. Woodul, President of  
the Senate.

Sir: We, a majority of your Committee on Public Health, to whom was referred

S. B. No. 59, Providing for the sexual sterilization of inmates of State institutions in certain cases.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, with committee amendment.

BECK, Chairman.

**Committee Amendment.**

By Duggan. S. B. No. 59.

**A BILL****To Be Entitled**

An Act to provide for the sexual sterilization of inmates of State institutions in certain cases, prescribing the method of procedure and fixing duties of officials concerned therewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. This act is severable in its provisions, and the invalidity of any part, section or provision of the same shall not be construed to affect the validity of any other part which may be given practical operation and effect without the invalid part, section or provision.

Where patients or persons are referred to in this act as of the masculine or feminine gender, the same shall be construed to include the feminine or masculine gender as well.

Sec. 2. A State Board of Eugenics is hereby created, to be composed of the State Health Officer, the Chief Physician and Surgeon at the University of Texas and one

member of the Board of Control, to be selected by said Board of Control, any two of whom may act as such Board. These members shall serve as this Board without compensation, and the clerical and office records of the Board shall be a part of the work of the State Board of Control.

If any of the above named State Departments should be discontinued, the Governor of this State shall appoint a suitable party to fill the vacancy on the State Board of Eugenics, created thereby.

Sec. 3. It shall be the duty of the said Board to pass on applications for eugenic sterilization made in accordance with the provisions of the law, and to keep a record on such sterilization. This record shall not be open to the public inspection except for such purposes as the Board may approve.

Sec. 4. When it appears to the superintendent or managing director of any State home or hospital for mental disease, or any state colony or institution for the care of the mentally defective, deficient, or diseased, or the warden or superintendent of any state prison or penitentiary, correctional school or reformatory, detention home or camp, that a patient or inmate under the care of such institution would be likely, if released without sterilization, to procreate a child or children who would have a substantial tendency to serious physical, mental or nervous disease or deficiency; said superintendent after consultation with the medical staff, if any, shall submit to the State Board of Eugenics a recommendation that a surgical operation be performed upon said patient for the prevention of parenthood. Such operation shall be vasectomy for males and salpingectomy for females, or some similar operation that would not unsex the patient, provided the provisions of this act shall apply only to such persons that have been legally committed to said institution by some court having proper jurisdiction.

Sec. 5. This recommendation shall be in writing and accompanied by a certified statement containing the history of the patient as shown in the records of the institution, so far as it bears upon the recommendation for sterilization, and setting forth the particular reasons why sterilization is recommended.



Sec. 6. The superintendent or managing director of any such state institution shall give written notice by registered mail or otherwise, to the patient, his legal representative, husband, wife or next of kin, if the name and address of any such are known to him in the state, of the application for the order to sterilize.

The patient or his legal representative, husband, wife or next of kin shall have the right to file with said State Board of Eugenics a protest, with any records or affidavits of facts bearing on the case, and to appear and introduce testimony before the said State Board of Eugenics if desired, and to appeal from any decision of said Board to the courts as provided in this Act. The Board may require additional facts or evidence from any party to the proceeding before passing on the case. Any member of the said Board shall have power to administer oaths to any document or witness in such case.

Sec. 7. If in the judgment of the State Board of Eugenics, procreation of said patient would be likely to produce a child or children who, by reason of inheritance would have a tendency to serious physical or mental disease or mental deficiency, it shall be the duty of the Board to approve said recommendation within thirty days, and to send to the superintendent a written order signed by at least two members of the board, directing him to proceed with the sterilization as provided in this Act. Nothing in this Act shall be construed to empower or authorize the board to interfere in any manner with the right of the patient or his representatives, to select a competent physician of his own choice for consultation or operation, at his own expense.

Sec. 8. The Board shall serve the patient with written notice of the order to sterilize, and shall send a similar notice with a copy of the order for sterilization, to the legal guardian, husband, wife or known next kin of the patient in this state, accompanying it with a certified copy of the superintendent's recommendation setting forth the ground on which sterilization is held desirable, and notification that the patient or his legal representative has a right to appeal to the

courts. If no near relative is known and no legal guardian has been appointed, such notice and copies shall be sent to the County Judge of the county from which the patient was committed and it shall be his duty to protect the rights and best interests of the patient.

If such patient, husband, wife, next of kin, legal guardian or county judge shall consent in writing to the operation as ordered by the board, such operation shall take place at such time as the superintendent of the institution in charge of the patient shall designate.

Sec. 9. If it appears to the patient or to his or her representatives that the proceedings taken have not conformed with the law or that the reasons given for sterilization are not adequate or well founded, or for any other reason the order is not legal or is not correct as applied to this individual, an appeal may be taken from the State Board of Eugenics to the District Court of the county containing the institution in which said patient is under care. The patient or representative of the patient shall have thirty days after the receipt of the records above mentioned, to file with the said State Board of Eugenics application of appeal. If no appeal is taken within such thirty days, the order of the Board shall be carried out as provided in Section 4, of this Act.

Sec. 10. Such appeal may be taken by filing within thirty days with the State Board of Eugenics, a petition for appeal to the District Court of the county in which said patient is detained. On receipt of such petition, the board shall send all records in the case to such court, and promptly notify the superintendent of the hospital or institution involved, of the appeal.

In this appeal, the person for whom an order of sterilization has been issued shall be designated as the plaintiff, and the superintendent of the hospital in which said patient is under care shall, in his official capacity be designated as defendant. The Court shall arrange for a hearing of such cases as early after the appeal as the rules and business of the court will permit. The county attorney shall represent the defendant.

Sec. 11. The proceedings before

the District Court shall constitute a trial de novo and upon application of either party shall be heard before a jury. The trial judge shall forthwith certify his findings to the superintendent of the institution in which the plaintiff is a patient or inmate to the State Board of Eugenics, and to the attorney or legal representative of the plaintiff. Said findings may affirm, review, or reverse the order of the said Board appealed from.

Sec. 12. Any decision of the District Court or of any court in such cases may be appealed to the higher courts of the state as in civil cases. The costs of appeal, if any, to the district and higher courts, shall be taxed as in civil cases.

Sec. 13. The pendency of any appeal shall stay proceedings under the order of the State Board of Eugenics until the appeal be determined. Should the State Board of Eugenics in the hearing above provided for, disapprove the superintendent's recommendation to sterilize, or in case of appeal should the decision of the court uphold the plaintiff's objection to the order; such disapproval or decision shall annul the order to sterilize, and the matter may not be brought up again until one year has elapsed from such disapproval or decision except by consent of the plaintiff, his guardian, legal representative, husband, wife, or known next of kin within this state.

Should the court find against the plaintiff, then, if no appeal is filed within ten days after such decision, said Board's recommendation shall be put into effect at a time fixed by the Superintendent of the hospital or institution in which the patient is under care; and the patient shall be sterilized as provided in Section 4 of this Act, whereupon the superintendent shall file a report of the operation with the State Board of Eugenics.

Sec. 14. Neither any of said medical superintendents nor any other party legally participating in the execution of the provisions of this Act, shall be liable either civilly or criminally on account of said participation, except in case of negligence in the performance of said operation.

Sec. 15. The fact that there are now no adequate laws providing for

sexual sterilization of inmates in State Institutions and the further fact that human experience has demonstrated that heredity plays an important part in the transmission of idiocy, feeble-mindedness, insanity, epilepsy and other degeneracies and that the State of Texas has in custodial care and is supporting in various state institutions many mentally defective persons, who if now discharged or paroled would likely become by the propagation of their kind a menace to society but who if incapable of procreating might safely be discharged or paroled and become self-supporting with benefit to both themselves and society, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read upon three several days be and the same is hereby suspended and that this Act take effect and be in force from its passage and it is so enacted.

Committee Room,

Austin, Texas, Feb. 7, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, a minority of your Committee on Public Health, to whom was referred

S. B. No. 59, A bill to be entitled "An Act providing for the sexual sterilization of inmates of State institutions in certain cases."

Have had the same under consideration, and beg leave to differ with the majority and report same back to the Senate with the recommendation that it do not pass.

HOLBROOK, Chairman.

Committee Room,

Austin, Texas, Feb. 8, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Education to whom was referred H. C. R. No. 28, "Texas Centennial Legislature, commending State Board of Education and each county superintendent of public schools for teaching history in high schools when students' minds are mature and can grasp the significance of such subjects."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass with committee amendment and be printed.

• DUGGAN, Chairman.

Amend H. C. R. No. 28 by striking out in last paragraph the following: "and to each school superintendent."

PACE.

Committee Room,  
Austin, Texas, Feb. 8, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Education to whom was referred

H. B. No. 346, A bill to be entitled "An Act repealing Chapter 317, Forty-second Legislature, Regular Session, as amended by Chapter 36, Forty-third Legislature, Regular Session, insofar as same may apply to the San Antonio Independent School District in Bexar County, Texas; providing for the election and tenure of office of school trustees in the San Antonio Independent School District; prescribing the manner of election and tenure of office of school trustees in said District; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

DUGGAN, Chairman.

Committee Room,  
Austin, Texas, Feb. 8, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Education to whom was referred

S. B. No. 144, A bill to be entitled "An Act to amend subdivision 4 of Article 2622n, Chapter 19-B, Title 49 of Revised Statutes of Texas of 1925, etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

DUGGAN, Chairman.

Committee Room,  
Austin, Texas, Feb. 8, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Education to whom was referred

S. B. No. 201, A bill to be entitled "An Act amending Section 1-a, Chapter 140 of the Regular Session of the Forty-second Legislature of Texas, providing for the organization of School Districts, common or independent by the County Board of School Trustees out of parts of exist-

ing school districts on petition of majority of qualified voters residing therein, and providing an appeal to the State Board of Education from the action of the County Board of School Trustees; providing that failure or refusal of such board to act shall be treated as a final order to establish such district and that hearing for State Board shall be de novo; repealing all provisions in conflict herewith and making this cumulative and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

DUGGAN, Chairman.

Committee Room,  
Austin, Texas, Feb. 8, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Education to whom was referred

S. B. No. 117, A bill to be entitled "An Act increasing the amount that may be allowed by county boards of trustees to the county superintendents of public instruction for expenditures for office and traveling expenses in counties with a population of not less than 77,000 and not more than 77,600, according to the preceding Federal census; repealing all laws or parts of laws, general or special, in conflict therewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

DUGGAN, Chairman.

Committee Room,  
Austin, Texas, Feb. 8, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Education to whom was referred

S. B. No. 115, A bill to be entitled "An Act providing for payment of the salary of the Ex-Officio Superintendent of Public Instruction in all counties having not less than three thousand, eight hundred fifty (3,850) and not more than three thousand, nine hundred (3,900) population, according to the last preceding Federal Census, from the County Available School Fund; prescribing the time when this Act shall take effect; repealing all laws or parts of laws in conflict with this Act; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

DUGGAN, Chairman.

Committee Room,  
Austin, Texas, Feb. 4, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

S. B. No. 130, A bill to be entitled "An Act to amend Acts of 1927, 40th Legislature, First Called Session, Chapter 80, by adding thereto Section 9-A, providing for the levying of a tax annually against the property in each of the Counties composing a Road District composed of two or more Counties, for the purpose of securing rights-of-way within such District for such highways as such Districts were created to construct, maintain and operate or acquire, for the maintenance of such District highways as are not maintained by the State as State Highways, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

FELLBAUM, Chairman.

#### Minutes of Committee Meetings.

Minutes of Committee on Educational Affairs, Held February 8, 1935, Regular Meeting.

Present: Duggan, DeBerry, Burns, Cotton, Hopkins, Hornsby, Neal, Pace, Poage, Regan, Small, Woodruff.

S. B. No. 115 was reported favorably by viva voce vote.

S. B. No. 117 was reported favorably by viva voce vote.

S. B. No. 201 was reported favorably by viva voce vote.

S. B. No. 144 was reported favorably by viva voce vote.

H. C. R. No. 28, with amendment, was reported favorably by viva voce vote.

H. B. No. 346 was reported adversely by the following vote:

Yeas: Burns, Hornsby, Neal.

Nays: Hopkins, Regan, Small, Woodruff.

Present but not voting: DeBerry.

JUANITA WILES, Secretary.

Minutes of Committee on Educational Affairs, Held February 4, 1935, Called Meeting.

Present: Duggan, DeBerry, Burns, Cotton, Hornsby, Neal, Pace, Poage, Regan.

Absent: Hopkins, Small, Woodruff.

S. B. No. 219 was reported favorably by a viva voce vote.

H. C. R. No. 21 was reported favorably by a viva voce vote.

S. B. No. 80 was reported favorably, with committee amendment, by a viva voce vote.

JUANITA WILES, Secretary.

#### TWENTY-FIFTH DAY.

Senate Chamber,  
Austin, Texas,  
February 13, 1935.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Walter F. Woodul.

The roll call disclosed a quorum, the following Senators being present:

Beck.	Neal.
Blackert.	Oneal.
Burns.	Pace.
Collie.	Poage.
Cotten.	Rawlings.
Davis.	Redditt.
DeBerry.	Regan.
Duggan.	Sanderford.
Fellbaum.	Shivers.
Hill.	Small.
Holbrook.	Stone.
Hopkins.	Sulak.
Hornsby.	Van Zandt.
Hughston.	Westerfeld.
Martin.	Woodruff.
Moore.	

Prayer by the Chaplain.

Further reading of the Journal was dispensed with on motion of Senator Davis.

#### Committee Reports.

(See Appendix.)

#### Minutes of Committee Meetings.

(See Appendix.)

#### Bills and Resolutions.

##### Senate Bill No. 274.

By Senator Fellbaum:

S. B. No. 274, A bill to be entitled